

and present certain facts in the best possible light.

The talking points include statements such as "I can say that the Program must continue"; "It is being run in a highly disciplined way"; and "There is strict oversight in place, both at NSA and outside, now including the full congressional oversight committees." The talking points also argue for changes to the Foreign Intelligence Surveillance Act (FISA) claiming "Current law is not agile enough to handle the threat" and "The FISA should be amended so that it is technologically neutral." These statements appear intended to advocate particular policies rather than provide guidance on classification.

As you know, the Congress is currently evaluating various aspects of the NSA program. The Senate Intelligence Committee is in the process of gathering information to understand operational aspects of the program, and the Senate Judiciary Committee has held public hearings related to the program's legal foundations. Several pieces of legislation dealing with this program and the FISA have been introduced in the Senate and the House of Representatives.

The future of the warrantless eavesdropping program and any proposed changes to the FISA are policy matters currently being considered in the political arena. We understand the Administration has a certain point of view regarding this program. The program is, however, the subject of consideration in the Congress.

We believe that it is inappropriate for the NSA to insert itself into this policy debate. In addition, we are particularly troubled by the statement on the cover page that the document is "Administration approved, unclassified talking points for Members to use." We object to an intelligence agency, such as the NSA, clearing documents such as these with the Administration prior to providing them to the Congress.

We also would note that the administration has failed to provide the Committee with documents and other basic information we need to conduct the strict oversight of the NSA program that the NSA talking points suggest is happening.

We ask that you review this incident and provide the Committee in writing, no later than September 8, 2006, an explanation of by whom and on what authority these talking points were prepared, who approved of their distribution to members of the Senate Intelligence Committee, and who made the decision that they should be cleared by the Administration prior to their being provided to Committee members. We also ask that your response describe steps you intend to take to ensure that all NSA employees understand the importance of NSA maintaining its independence from policy debates.

Thank you for your attention to this matter.

JAY ROCKEFELLER.  
EVAN BAYH.  
RUSSELL D. FEINGOLD.  
DIANNE FEINSTEIN.  
CARL LEVIN.  
BARBARA A. MIKULSKI.  
RON WYDEN.

NATIONAL SECURITY AGENCY,  
Fort George G. Meade, MD, 1 September 2006.  
Hon. JOHN D. ROCKEFELLER IV,  
Vice Chairman, Select Committee on Intelligence, U.S. Senate, Washington, DC.

DEAR VICE CHAIRMAN ROCKEFELLER: I appreciated the chance to talk with you yesterday about the concerns you raised in your letter of 29 August 2006 pertaining to a set of talking points on the President's Terrorist Surveillance Program (TSP) that NSA provided to the full Senate and House intel-

ligence committees. I regret that our effort was misperceived as political.

As I stated on the phone, my intent was to respond to requests from intelligence committee Members who visited the Agency to oversee the TSP. They cited constituent concerns and asked what they could say publicly about the Program, and we wanted to be as helpful as possible. Because we are an Executive Branch agency, it is standard practice that NSA coordinated the talking points with the Department of Justice, National Security Council staff, and the Office of the Director of National Intelligence. We were especially concerned that nothing we gave out could or would be construed as classified.

I again assure you that we intended our effort to be apolitical. We are proud of our people, and our talking points reflect the pride in our service to our nation. I want to emphasize that NSA will not permit political considerations to taint our intelligence information.

If you have any questions, please call me or Michael Lawrence, Director of Legislative Affairs.

KEITH B. ALEXANDER,  
Lieutenant General, U.S. Army,  
Director, NSA.

Mr. ROCKEFELLER. Mr. President, it is clear to me that the administration's withholding of documents is designed to hamper the Intelligence Committee's review of the NSA program. Up to this point, information provided to the committee in briefings held since March has been filtered and generalized through charts and slides.

My attempts to obtain original documents, such as the Presidential authorizations, and to ask questions that go beyond these administration-approved briefings have been ignored.

This refusal to respond to legitimate information requests from the Oversight Committee, combined with the administration's over-restriction of member and staff access to the NSA program, is part of a cynical White House strategy to prevent Congress from either acting or forcing it to legislate on vital national security and privacy issues in the dark.

Twenty of the 100 currently serving Senators have been briefed on the NSA program at one point or another in the past 5 years. The White House currently allows only three members of the Intelligence Committee staff—two Republican staffers and one Democrat—to have access to the NSA program.

By contrast, there are well over a thousand employees at the NSA, CIA, FBI, Justice Department, Office of DNI, Pentagon and White House briefed into the NSA program.

I want my colleagues to take note of this disparity. Twenty Senators and three staffers compared with over a thousand executive branch employees.

If, in the remaining weeks of this session, the full Senate is asked to consider legislation to revise FISA or authorize aspects of the NSA warrantless surveillance program, it is untenable—if not unprecedented—to keep four-fifths of the Senate ignorant of why the changes are justified or what intelligence activities they are authorizing.

The Senate should insist that all Members be allowed to understand the

NSA wiretapping program—with the appropriate care being taken to protect the remaining classified aspects not already acknowledged by the President—and be given the chance to draw their own conclusions about whether it is justified.

Finally, General Hayden and others have publicly stated that no legal concerns have been raised within the administration about the operation of the NSA program. Limited information presented to the committee contradicts this assertion. But the committee has been prevented from understanding the details and context of these internal debates about the program's legality due to the administration's stonewalling.

I urge my colleagues—we must insist on a full accounting of the NSA's ongoing 5-year program before acting on legislation that gives the President the authority to wiretap the phone conversations of Americans where a court has not determined that a probable cause standard has been met.

Mr. President, I yield the floor.

The PRESIDENT pro tempore. The Senator from Georgia is recognized.

Mr. ISAKSON. Mr. President, I rise to speak for 8 minutes and ask the Chair to give me the signal when I have used that time.

The PRESIDENT pro tempore. The Senator has 16½ minutes.

#### UNITY IN THE WAR ON TERROR

Mr. ISAKSON. Mr. President, I am really delighted, after some of the things I have read and heard this morning. I decided last night to make the speech I am about to make. This morning, I want to go back to the speech the President made on Monday evening and go back to the President's clarion call for us to unite as a nation behind our effort to win the war on terror.

During the past 3 days—first Monday, September 11, where we all honored and mourned the tragic loss of 3,000 citizens, through today—I have read constant editorials and listened to numerous speeches that imply to me that that sense of unity doesn't really exist. I think the President was right to call for unity.

This morning I rise in an effort to have us focus on what we are really all about, not to point fingers or castigate anybody but to talk about what I believe is the ultimate war between good and evil. What happened on September 11 in 2001 was one of the most tragic events in the history of mankind. What the United States did, and what this President declared, by changing our policy from one of reaction to one of preemption was precisely the right thing to do. There is no doubt that in the last 5 years mistakes have been made. But there is no doubt that the greatest mistake would have been not to respond. It is now time for us to resolve to support this country, our men and women in harm's way, our intelligence agencies, with a resolve to see

it through to its conclusion, understanding that it is going to be a long and difficult battle.

We should not forget that the Cold War lasted half a century. As a youngster at R.L. Hope Elementary School in Atlanta, GA, I remember every week we practiced climbing under our desks as we did drills because we feared a nuclear attack from the Soviet Union. It was only when the Berlin Wall came down in the 1990s and communism was finally defeated that the Cold War ended.

This war could be as long and as difficult. But it is different. We fight an enemy with no uniforms, no diplomats, and no capital. It doesn't want what we have. They don't want us to have what we have. They don't want us to have the freedom of speech—for me to do what I am doing here—or for the press to criticize it. They don't want you to be able to bear arms if you are a law-abiding citizen or to go to church on Saturday or Sunday and worship or to not worship at all or the way you want. They don't want you to have the freedom to assemble and gather.

They are using those very inalienable rights of ours against us today and, in some cases, some of us are unwitting accomplices in that criticism. By way of example, we argue and parse about issues of interrogation and some issues of intelligence and surveillance, when every day that we fail to act the other side uses that against us to try to find a way to break us and kill American citizens. How else in the 21st century, in a world of computers and digital technology and cellular technology, can we track terrorists if we cannot listen to them? How in the world can we learn about those who would kill innocent Americans if we cannot interrogate them?

There was an editorial in the Monday paper, September 11, 2006, 5 years after 9/11, in my hometown paper, the Atlanta Constitution. It said, "Power is found in our ideals not in our weapons." That is a great headline. They are right. One of the great ideals that the American people have is that we don't quit. We didn't quit in our revolution or in our Civil War or in World War I and World War II, and we cannot quit now. In this editorial, criticizing us in terms of Guantanamo Bay and Abu Ghraib, who is the moral authority quoted? None other than Osama bin Laden. The man that is quoted as questioning America's values is the man that relishes cutting off the heads of innocent American citizens, the man who takes pride in calling out and charging terrorists with attacking American citizens on 9/11, and the man who to this very day plots to kill innocent Americans.

We must listen to what they are saying, track what they are doing. When we capture them, we must get the intelligence necessary to save innocent lives. We must unite as a country, a media, political parties, and as a people to stand steadfastly behind this effort and see it through to conclusion.

I personally submit that we are getting pretty close. I think the fact that they are concentrating in Baghdad, the fact that we have seen what we have seen in terms of them trying to portray a civil war is because we have had them on the run and it is their last stand. You see, terrorism doesn't have to beat us on the battlefield. They only have to make us quit and come home. Then they can declare victory. We cannot let that happen.

I conclude my remarks by admonishing all of us, myself included, to join together to find solutions to move forward and support this effort to its conclusion and to its success. We should not tie the hands of our Armed Forces or our intelligence networks behind their backs. We should instead put our arms around them and embrace them, let them charge ahead and continue to track our enemies wherever they are and find out the information that is necessary. Then, and only then, will we be equalized in the war on terror and ultimately prevail.

I yield the floor.

The PRESIDENT pro tempore. The Senator has 10½ minutes remaining.

The Senator from South Carolina is recognized for 10 minutes.

Mr. DEMINT. Mr. President, I join my colleague, Senator ISAKSON from Georgia, in calling for the ceasing of this politicizing of a very important effort and the need to unify as a nation. As we commemorate the fifth anniversary of 9/11, I was reminded of how far we have come since that terrible day in securing America's homeland against future attacks, and how much further we have left to go.

I am thankful to be part of a Republican majority that is taking real action to make America safer, to secure our borders first, to strengthen port security with background checks for workers and scan every cargo container at our busiest ports for weapons of mass destruction.

President Bush and a Republican-led Congress have also shown relentless determination in the war against radical Islamic terrorists all around the world.

We prevented further attacks by uncovering and stopping 15 major terrorist plots against America and likely many others which are not public knowledge. We have frozen \$1.5 billion in terrorists' assets in the United States through economic sanctions. We have implemented 37 of 39 recommendations of the 9/11 Commission. And we have liberated more than 50 million Afghans and Iraqis from despotism, permitting the first free elections in either country.

Just this week, the Senate took another important step to keep America's families safe by voting unanimously to pass the WARN Act, an important piece of legislation that will modernize our severely outdated emergency alert system using everyday technology such as cell phones and Blackberrys.

Meanwhile, and unfortunately, Democrats are trying to kill the port

security bill by tying it up with political amendments—once again proving that they are willing to put their hope of winning an election ahead of the security of our country.

Unfortunately, during this election year, many of my Democratic colleagues seem more interested in posturing and pointing fingers than in putting forward serious proposals about how to deal with the ongoing terrorist threat. They accuse President Bush and Republicans of being satisfied with the status quo. Nothing could be further from the truth.

The Republican-led Congress has actively fought to secure America's homeland by funding critical ongoing needs of our troops and by increasing funds for border security, while Democrats have blocked commonsense efforts such as stopping the catch-and-release program for illegal immigrants which encourages more and more illegal immigration in this country.

The Democrats have blocked, or tried to block, the renewing of the PATRIOT Act, but we have been able to pass it despite the Democratic leader's claims to have killed it.

The Republican Congress is defending the use of military intelligence and law enforcement resources that have led to the capture of many of al-Qaida's top leaders and have helped to degrade al-Qaida's capabilities around the world. But these very techniques were criticized by my distinguished Democratic colleague this morning on the floor. We have to use the technology available to us to track communications, to stop financing of terrorism around the world, and if we don't we put our country at risk.

The Republicans have supported strong nominees for critical national security and foreign policy positions, such as U.N. Ambassador John Bolton, despite Democratic obstruction.

Again, despite continued Democratic obstruction, Republicans will continue to push a comprehensive agenda to secure America's homeland that will strengthen our borders with additional border agents, enforce immigration laws with worker verification, secure our ports with worker background checks, and support surveillance to find and stop terrorists before they strike.

What is the Democratic plan? The latest Democratic plan to secure our country is to complain about Donald Rumsfeld, to send a letter to the President telling him to do things in Iraq that have already been implemented and, as we heard this morning, to complain about the listening or tracking of phone calls from known terrorists.

I can't put it any better than my good friend, the Senator from Kentucky, Mr. MITCH MCCONNELL, who recently said while talking about Democrats' cut-and-run strategy:

The Democratic leadership finally agrees on something—unfortunately, it's retreat.

Whether they call it redeployment or phased withdrawal, the effect is the

same: they would leave Americans more vulnerable and Iraqis at the mercy of al-Qaida, a terrorist group whose aim toward Iraqis and Americans is clear.

If Democrats spent half as much time fighting terrorists as they do this administration, America would win this war a lot faster.

Democrats claim to be the only ones who care about what Americans think, but Americans can see through their posturing. Compassionate rhetoric without a real plan for action is nothing more than an empty promise.

Republicans are committed to securing our homeland and have backed up that talk with action. Like my colleague, Senator ISAKSON, I invite my Democratic colleagues to join us in honoring the sacrifice of those who have already given their lives for freedom by providing real hope and security for all Americans instead of just partisan rhetoric.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. VITTER). The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mrs. MURRAY. Mr. President, what is the pending business?

#### CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

#### SECURITY AND ACCOUNTABILITY FOR EVERY PORT ACT

The PRESIDING OFFICER. Under the previous order, the Senate will now resume consideration of H.R. 4954, which the clerk will report.

The legislative clerk read as follows:

A bill H.R. 4954) to improve maritime and cargo security through enhanced layered defenses, and for other purposes.

Pending:

Reid amendment No. 4936, to provide real national security, restore United States leadership, and implement tough and smart policies to win the war on terror.

Schumer amendment No. 4930, to improve maritime container security by ensuring that foreign ports participating in the Container Security Initiative scan all containers shipped to the United States for nuclear and radiological weapons before loading.

The PRESIDING OFFICER. Under the previous order, the time until 12:15 p.m. shall be equally divided in the usual form.

The Senator from Washington is recognized.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the pending amendment be temporarily set aside in order that I may send an amendment to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 4967

Mrs. MURRAY. Mr. President, I send an amendment to the desk on behalf of Senator STABENOW and ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Washington [Mrs. MURRAY], for Ms. STABENOW, for herself, Mr. LIEBERMAN, Mr. LEVIN, Mr. SCHUMER, Mr. DURBIN, Mrs. BOXER, and Mr. DAYTON, proposes an amendment numbered 4967.

Mrs. MURRAY. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To authorize grants for interoperable communications)

At the appropriate place, insert the following:

#### SEC. \_\_\_\_ . EMERGENCY COMMUNICATIONS AND INTEROPERABILITY GRANTS.

(a) IN GENERAL.—The Secretary, through the Office of Domestic Preparedness of the Office of State and Local Government Preparedness and Coordination, shall make grants to States, eligible regions, and local governments for initiatives necessary to improve emergency communications capabilities and to achieve short-term or long-term solutions to statewide, regional, national, and, where appropriate, international interoperability.

(b) USE OF GRANT FUNDS.—A grant awarded under subsection (a) may be used for initiatives to achieve short-term or long-term solutions for emergency communications and interoperability within the State or region and to assist with any aspect of the communication life cycle, including—

- (1) statewide or regional communications planning;
- (2) system design and engineering;
- (3) procurement and installation of equipment;
- (4) training exercises;
- (5) modeling and simulation exercises for operational command and control functions; and
- (6) other activities determined by the Secretary to be integral to the achievement of emergency communications capabilities and communications interoperability.

(c) DEFINITIONS.—In this section—

(1) the term “eligible region” means—

(A) 2 or more contiguous incorporated municipalities, counties, parishes, Indian tribes, or other general purpose jurisdictions that—

(i) have joined together to enhance emergency communications capabilities or communications interoperability between emergency response providers in those jurisdictions and with State and Federal officials; and

(ii) includes the largest city in any metropolitan statistical area or metropolitan division, as those terms are defined by the Office of Management and Budget; or

(B) any other area the Secretary determines to be consistent with the definition of a region in the national preparedness guidance issued under Homeland Security Presidential Directive 8; and

(2) the terms “emergency response providers” and “local government” have the meanings given the terms in section 2 of the Homeland Security Act of 2002 (6 U.S.C. 101).

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section—

(1) \$1,000,000,000 for each of fiscal years 2007 through 2011; and

(2) such sums as are necessary for each fiscal year thereafter.

The PRESIDING OFFICER. Who yields time? The Senator from Nebraska is recognized.

AMENDMENT NO. 4945

(Purpose: To provide emergency agricultural disaster assistance, and for other purposes)

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent to call up my amendment No. 4945.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside. The amendment is called up, and the clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Nebraska [Mr. NELSON], for himself, Mr. CONRAD, Mr. REID, Mr. SALAZAR, Mr. JOHNSON, and Mr. DORGAN, proposes an amendment numbered 4945.

Mr. NELSON of Nebraska. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in the RECORD of Tuesday, September 12, 2006, under “Text of Amendments.”)

Mr. NELSON of Nebraska. Mr. President, first I would like to point out the cosponsors. Senators TALENT, LEAHY, OBAMA, DURBIN, DAYTON, SCHUMER, and CLINTON have all asked to be original cosponsors of my amendment.

I rise today to offer an amendment to H.R. 4954 that will provide much needed emergency relief to farmers, ranchers, and small businesses in rural America that today and for some time have been suffering the devastating impacts of natural disasters, such as the long-running drought in my home State of Nebraska.

A few years ago, I named the drought “David” to make the point that a drought is a natural disaster just like hurricanes—although it seems to be in slow motion—or floods or tornadoes and should be treated by Congress in much the same way because they are disastrous. Congress provides emergency relief to those who have suffered through devastating hurricanes, and there is no excuse for not helping farmers, ranchers, and businesses suffering from this natural disaster.

Unfortunately, in parts of Nebraska, Drought David is celebrating its seventh birthday, and yet Congress has failed to provide relief. I believe this relief must be addressed before Congress heads home for the elections, and I believe it should be addressed this week. That is why I am offering my amendment.

Ordinarily, I wouldn’t offer an amendment to the port security bill because I certainly want to support that. But because of the lack of other opportunities and the increasing need for relief, I am faced, along with my cosponsors and others who will join me, with the recognition that there aren’t many opportunities. And waiting until after